

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Bryan E. Devault,

*Appellant,*

v.

Case No. 07-INV-02-0063

Ohio State University,

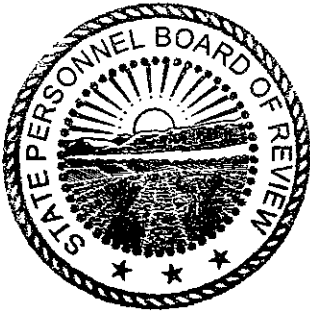
*Appellee.*

**ORDER**

This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.


Wherefore, it is hereby **ORDERED** that the request for an investigation be **TERMINATED**, pursuant to O.R.C. § 124.56.



Lumpe - Aye

Booth - Aye

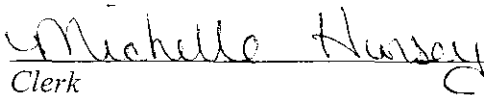
Sfalcin - Aye

  
\_\_\_\_\_  
J. Richard Lumpe, *Chairman*

**CERTIFICATION**

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitute ~~(the original)~~ a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, June 13, 2008.

  
\_\_\_\_\_  
Michelle Hursey  
*Clerk*

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Bryan E. DeVault,

Case No. 07-INV-02-0063

*Appellant*

v.

April 30, 2008

Ohio State University,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's February 16, 2007, request for investigation. Appellant alleged that he had been subjected to wage discrimination, specifically, that Appellee had failed to honor his journeyman's card. Appellee filed a Motion to Dismiss with this Board on April 14, 2008, asserting that this Board lacks jurisdiction to conduct an investigation of the matter. Appellant filed no memorandum *contra*.

Unlike a court of general jurisdiction, the State Personnel Board of Review has authority only where it has been explicitly conferred upon it by the Ohio General Assembly. This Board's investigatory jurisdiction is derived from R.C. 124.56, which provides that this Board shall conduct an investigation when it has reason to believe that:

. . . any officer, board, commission, head of a department, or person having the power of appointment, layoff, suspension, or removal, has abused such power by making an appointment, layoff, reduction, suspension, or removal of an employee under his or their jurisdiction in violation of [Chapter 124.] of the Revised Code . . . .

In order to invoke this Board's authority, Appellant must allege that Appellee has made an appointment, layoff, reduction, suspension, or removal in violation of R.C. Chapter 124. Where a request for investigation alleges none of the above-referenced triggering devices, the State Personnel Board of Review is without jurisdiction to proceed with an investigation. *State, ex rel. Carver v. Hull* (1994), 70 Ohio St.3d 570; *Okopal v. University of Toledo* (1982), PBR 82-INV-10-3019; *Reed*

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*v. Montgomery County Board of Mental Retardation* (1982), PBR 82-INV-09-2801;  
*Logsdon v. University of Cincinnati* (1982), PBR 82-INV-08-2690.

Appellant's request for an investigation an alleged of wage discrimination is not one of the triggering devices found in R.C. 124.56. Accordingly, I find that this Board has no jurisdiction to proceed with an investigation of this matter.

Therefore, I respectfully **RECOMMEND** that the instant investigation be **TERMINATED**.

  
Jeannette E. Gunn  
Administrative Law Judge

JEG: